

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON LOCAL GOVERNMENT

Call to Order: By **CHAIRMAN MARK NOENNIG**, on March 27, 2001 at 3:00 P.M., in Room 472 Capitol.

ROLL CALL

Members Present:

Rep. Mark Noennig, Chairman (R)
Rep. Rod Bitney, Vice Chairman (R)
Rep. Jeff Mangan, Vice Chairman (D)
Rep. Joan Andersen (R)
Rep. Eileen Carney (D)
Rep. Larry Cyr (D)
Rep. John Esp (R)
Rep. Dennis Himmelberger (R)
Rep. Hal Jacobson (D)
Rep. Rick Laible (R)
Rep. Jesse Laslovich (D)
Rep. Bob Lawson (R)
Rep. Michelle Lee (D)
Rep. Brad Newman (D)
Rep. Ken Peterson (R)
Rep. William Price (R)
Rep. James Whitaker (R)
Rep. Cindy Younkin (R)

Members Excused: None.

Members Absent: None.

Staff Present: Eddye McClure, Legislative Branch
Pati O'Reilly, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: SB 138, SB 407, SB 333
3/21/01, 3/31/2001
Executive Action: SB 333, SB 407, SB 138, SB 241

HEARING ON SB 138

Sponsor: Senator Linda Nelson, SD

Proponents: Jim McGee, Gt. Falls property owner
Alec Hanson, League of Cities and Towns
Deb Kottel, Cascade County
Judy Painter, MT Dept of Revenue
Jon Metropolis, MT Society of CPA's

Opponents: Bob Broadway, Sun Prairie Sewer & Water Dist.
Dale Mercer, Montana Conservation Dist.
Gayla Workman, Cascade County Water & Sewer Dist.
Allen Jarrett, Pres. Sun Prairie Sewer & Water Dist.

Opening Statement by Sponsor: Sen Loren Grosfield presented SB 138 on behalf of **Sen. Linda Nelson**. This bill comes from the local government funding and structure committee and was put together by a number of legal specialists, apparently who went through the local government statutes, financing statutes and funding statutes. This is basically a re-write of those statutes. There are several repealers. This bill is intended to clean up the statutes after an accumulation of legislation spanning over 100 years. This bill does not provide uniform accountability for special districts and special authorities and that sort of thing. It does not provide for consolidation of governmental entities, not for any re-assignment of duties, on the other hand it does not prohibit a mutual agreement. The codification for this bill at the very end says that, those first sections codify Title 7, Chapter 6, Part 6 and in that part in 6-602, the local government means a consolidated city or a city-county or a county, city or town. The last part of this bill applies to additional entities by clearing up filing issues and definitions. This last part applies to various types of districts. The governmental entities have to adopt the state fiscal year, meaning from July 1 thru June 30. The amendment with my name on it is not being offered, however there is another amendment being offered that has Sen. Nelson's name on it. **EXHIBIT (loh69a01) {Tape : 1; Side : A; Approx. Time Counter : 0 - 7.8}**

Proponents' Testimony: Jim McGee. Great Falls property owner and was part of the work group that drafted this bill. As a proponent, I think the main thing to point out is that many of the opponents involving special districts are still involved with this bill because there was originally some language that involved them. That language is no longer in the bill. This is local government law which includes them, but they do not agree with this bill.

There are a number of new rules, basically a uniform budget system for cities and counties to follow, this is a guideline to go from step A to step Z for counties and cities. This has 32 new sections which are accounting and budgeting rules, strictly for cities and counties, it amends 30 statutes, it repeals 85 statutes. The 85 statutes that are repealed are city-county and the provisions are those that want to consolidate in a uniform way. The only item I am aware of in this bill that would affect special districts is the part where they are required to report to Dept of Commerce, this part requires special forms and does change the flow of monies. **{Tape : 1; Side : A; Approx. Time Counter : 7.8- 11.7}**

Alec Hanson, MT League of Cities and Counties, The purpose of this bill is to eliminate 85 statutes and replace them with uniform codes for everyone. The bill clarifies judgments and provides an extended deadline for certified mill levies, so that local governments can write budgets based on actual facts rather than just guessing. It promotes uniformity, it simplifies emergency expenditure authority, and is a good bill for local entities. **{Tape : 1; Side : A; Approx. Time Counter : 13.7 - 14}**

Deb Kottel, Cascade County, We have three technical amendments that we have spoken to Sen. Nelson about. Actually, we had five amendments, she did not agree with two of them. The first one deals with providing the District Court with a copy of the preliminary budget, this would make a compliance trap by requiring different notices to different parties. Cascade County was puzzled as to why the District Court would be supplied the preliminary budget rather than the final budget. Amend Section 29 to add "or district court or," the current language does not clarify that the District Court must live within the budget. These are technical corrections and I hope you will pass this bill. **{Tape : 1; Side : A; Approx. Time Counter : 14 - 16.6}**

Judy Painter, MT Dept of Revenue, we have worked on this bill with local government funding, working with the city of Whitefish and served as monitors for the various departments. **{Tape : 1; Side : A; Approx. Time Counter : 16.6 - 17.0}**

Jon Metropolis, Montana Society of CPA's, please pass this bill as amended. **{Tape : 1; Side : A; Approx. Time Counter : 17 - 17.9}**

Opponents' Testimony: Bob Broadway, Gen. Manager of Sun Prairie Sewer and Water District, as has been stated there is a lot of concern on the part of the special districts regarding this bill and in part maybe critical to what is local government. Some of the provisions in the bill seem to be for special districts, I can't speak for the other districts, but I can speak for the water and sewer districts. I have written testimony I would like to hand

out for you to read in order to save time. We have concerns about the bill, we feel we have done a very good job over the years maintaining resources, both financial and fiscal and would ask that water and sewer districts be excluded from this bill.

EXHIBIT(loh69a02){Tape : 1; Side : A; Approx. Time Counter : 17.9 - 19.6}

Dale Marcer, Montana Association of Conservation Districts, I am very concerned about this bill, line 17 is a little confusing, some say we are local government and some say we are not. Several years ago our District was involved with getting their money through the county, like this and it was a bookkeeping nightmare. Since then we have been on our own, we are audited every year and have had not problems. I have some amendments I wish you would consider before passing this bill. **EXHIBIT(loh69a03) {Tape : 1; Side : A; Approx. Time Counter : 19.6 - 21.4}**

Gayla Workman, Cascade County Conservation District, we strongly oppose the bill. We do not oppose the bill entirely, but we oppose the language that deals with conservation districts. We would like it to be very clear and we request that you remove Conservation Districts from this bill. We were not invited to participate in the work group, so had no way of influencing this bill.**{Tape : 1; Side : A; Approx. Time Counter : 21.4 - 22.5}**

Allen Jarrett, Pres. Of Sun Prairie Sewer and Water District, I concur with the other opponents. **{Tape : 1; Side : A; Approx. Time Counter : 22.5 - 23.0}**

Informational Testimony: None

Questions from Committee Members and Responses: Rep. Mangan asked Mr. McGee, to further clarify, it is my understanding that with the amendments that Sen. Nelson gave us, is it your understanding that the districts would be struck from the bill? McGee, stated that some the information was struck in the Senate. Sen. Nelson amendment would clean up striking all district language. The confusion is Title 2, that refers to audit and reporting requirements to the Dept. of Commerce. There are also some definitions that are in question. Title 7, Chap 6 are all definitions for only cities, counties and consolidated cities and counties. Sections 1 thru 32 is simply addressed to the above.

Rep. Mangan questions Ms. Workman, I know you are at a disadvantage because you have not seen the amendments and only heard the brief testimony, would you agree with Mr. McGee that conservation districts would be excluded with those amendments?

Ms. Workman, I am basing my concerns on the bill that I have here, I seems that this amendment is striking your concerns. **Rep.**

Peterson asked Mr. McGee; I would like to refer you to page 8,

lines 14 and 15. This is the existing section 2-7-501-now 14 and 15 are in the existing statute? Yes. You are telling us that those districts are not included in this bill. Correct. The sections 1 thru 32 will be codified by Title 7, Chapter 6. **{Tape : 1; Side : A; Approx. Time Counter : 23 - 30}**

Closing by Sponsor: Sen. Grosfield closed SB 138, stating that the amendments 1 and 3 offered by Cascade County are offered by Sen. Nelson and the 2nd amendment would not hurt anything, so it could also be adopted. **{Tape : 1; Side : B; Approx. Time Counter : 0 - 4.4}**

HEARING ON SB 407

Sponsor: Senator Dale Berry, SD 30

Proponents: Tom Daubert, Montana Solid Waste Assn and US Filter Operating Service.

Opponents: None

Opening Statement by Sponsor: Sen. Berry introduced SB 407. This bill is SB 407 if you look at lines 23 thru 25, that is pretty much the bill. What we are asking is that a city or town may extend or renew an agreement for the operations of a plant that provides water, sewer, power to a municipality without using the bidding procedure process. This is an extension, so the contract would already be in place, already through the bidding process and allows these to be extended. It would save our cities considerable dollars and time. **{Tape : 1; Side : B; Approx. Time Counter : 4.4 - 6.8}**

Proponents' Testimony: Tom Daubert, Montana Solid Waste Assn, which is a statewide organization and I work for a company called US Filter Operating Service. We support this bill because we have a serious interest in the scheme of governments contracting with the local sector. We have found that local governments do not even consider the private sector, many times, because of the expense of the bidding procedure. It gives entities a little more flexibility. Some cities spend in excess of \$100,000 for supplies and there are not a lot of companies that will bid on these items. They would have to go out for bid if they changed the contract. **{Tape : 1; Side : B; Approx. Time Counter : 6.8 - 8}**

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses: Rep. Noennig, I am trying to figure out to what extent you could amend one of these contracts and still fall within the limits of this bill. Do the contracts provide for a certain rate and certain duration, is there a purpose of the bill was that these kinds of contracts should be let out for bid and I am just wondering without any limitation on this exception that there would be a potential for abuse. I don't mean abuse, in the sense, but in essence be a whole new acceleration of the bidding process, scope of the project, it might thwart the purpose behind the bidding contract law. Mr. Daubert, a city would not choose to make changes, if they didn't know it were in the best interest of the citizens. **Noennig** -if that were true we would not need the bidding requirements, the bidding requirements for water, sewer and power services, I read the statute before the bill was amended, were ones the city was required to go out for bid. We really have not deleted that, but we are giving permission to amend that, with the bidding already taking place. It seems to me that amendments could be made to effectuate a new contract, we are just calling them amendments and you avoid the bidding requirements. Is that a reasonable question? Mr. Daubert-I don't believe so, because you must trust the city to use discretion on behalf of their citizens. **{Tape : 1; Side : B; Approx. Time Counter : 8 - 13.3}**

Closing by Sponsor: Sen. Berry closed. I think the bill is fairly simple, however the committee had some great questions and I guess I would think that if there were someplace for mischief in the process, that even if you bid you would have that same conniving relationship. The thing we are looking at is there is a lot of small communities or larger communities where there is no competition, the person who has entered the bid will be the only bidder coming back. So if the municipalities like the product and the quality they have gotten, the price has been good and they can keep that intact without the cost of a new bidding process. They always have the option to go for bids if there are a lot of providers or they are not satisfied. Rep. Laible to carry on the house floor. **{Tape : 1; Side : B; Approx. Time Counter : 13.3 - 15.6}**

EXECUTIVE ACTION ON SB 407

Motion: REP. LEE moved that SB 407 BE CONCURRED IN.

Motion: REP. ESP moved that SB 407 BE AMENDED.

Suspend executive action to allow Sen. Beck to speak. **{Tape : 1; Side : B; Approx. Time Counter : 15.6 - 17.5}**

HEARING ON SB 333

Sponsor: Sen. Tom Beck, SD 20

Proponents: Cell Pohle, Powell County

Opponents: None

Opening Statement by Sponsor: Sen. Beck introduced SB 333. This bill is a very simple bill. Last session we passed a bill in the Senate that dealt with prison ranch itself. Its operations, its cattle inventory and how it competes with the private sector in the Deer Lodge valley and we asked if they would pay a payment in lieu of taxes to be distributed between the county and the school districts, and the amount of that tax is written in the bill, it is \$46,000.00. What we have done and what was supposed to happen was that in the interim a study was to be done to determine the amount of taxes to be paid. The study is to determine if this was a good idea or not. The study was not accomplished by the interim committee, what I am asking is that you remove the sunset off of this bill, this tax is determined by other ranches in the area, by size and volume, the prison ranch does have probably, I would say 600 head of cattle on the ranches at the present time, they have about 2 million dollars in their ranch account. This is just a small amount of money to return to the Powell County for schools, because quite a few employees live on this ranch and so what I am asking is that they pay their share. My neighbors have been complaining about this, because they are the ones that take cattle to the market and they sell on the same market as everybody else, Hay, cattle, grain and they are saying they have an advantage, with this they will still have an advantage, because their cost of labor is cheap. **{Tape : 1; Side : B; Approx. Time Counter : 17.5 - 20.3}**

Proponents' Testimony: Cell Pohle, Powell County Assessor and I am here representing the County Commissioners who could not be here and also I am the one that figured out about how much the ranch should pay in taxes. I will pass out the letter from the county commissioners. **EXHIBIT(loh69a04){Tape : 1; Side : B; Approx. Time Counter : 20.3 - 21.2}**

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses: Rep. Liabile

questions Beck? Sen Beck, how do you local farmers and ranchers feel about this? **Sen. Beck** said they feel that the \$46,000.00 would offer some balance, this will not lower the taxes in Powell County, but will allow some comfort level for neighboring farmers and ranchers. They compete against the locals, but they don't have to pay taxes, why not? Fair is Fair. Everyone else in the valley that sells any product is being taxed, we are strictly doing this on the ranch operations, but they make money.

Rep. Esp to Beck: Is your county receiving any PILT monies now and how is this handled for the research stations. Sen. Beck - No. The prison ranch is run for a profit, there was one time when the prison ranch was subsidized by the general fund and this goes back to Sen. Haffey's time. He wanted to sell the prison ranch or make it profitable. I agree with that, but the experiment stations are a different story, they can't really operate for a profit, they are operating for research and development, they are a much more costly operation than the prison is. We can not expect the experiment stations to pay taxes. **Rep. Esp** how does this affect the University systems, do they pay taxes or PILT as they use the police and fire protection. Sen. Beck, no they do not-there is some monies there to cover these costs, but not in the PILT area.

Rep. Laslovich asked Sen Beck if these taxes could be split with Deer Lodge County? Beck-No.

Rep. Peterson to Beck, when the sunset provision is removed what happens. What happens when the \$46,000.00 is not enough, do you come back to legislature for a revision. Beck stated that is how it would work. Beck agrees to have the sunset moved forward a couple of years to allow some time to see if this works. **{Tape : 1; Side : B; Approx. Time Counter : 21.2 - 27.2}** Peterson asks if the profits on this ranch are used for any other purposes. Beck answers that they do some dam repairs, they also help support the cannery and have other expenses. However, Powell County is not flush and they do need the monies for the schools. I would try to work some way even in HB 2 to get the money for the cannery in Deer Lodge.

Closing by Sponsor: **Sen. Beck** closed SB 333. I would hope you would look at this and support it. **Rep. Laslovich** to carry on house floor. **{Tape : 2; Side : A; Approx. Time Counter : 0 - 2.2}**

EXECUTIVE ACTION ON SB 333

Motion/Vote: REP. YOUNKIN moved that SB 333 BE CONCURRED IN. Motion carried unanimously. {Tape : 2; Side : A; Approx. Time Counter : 2.2 - 5.0}

EXECUTIVE ACTION ON SB 407

Motion: REP. LEE moved that SB 407 BE CONCURRED IN.

Discussion: Rep. Peterson: I have some of the same concerns that Chairman Noennig and Rep. Esp expressed. I have dealt with all kinds of cities and towns as city attorney, they are really sensitive to their constituents, maybe even more so than the legislature, and they are sensitive to costs so I don't think there is any need for an amendment. There is probably not any mischief here, I think they would be careful, this is not mandatory, it is permissive and if they decide this is getting to expensive and they want to put it out for bids they sure can. I think it is alright. Rep. Esp I think it may or may not be alright but what we are saying in this is that if you already have a contract you do not have to bid it. That could cause a major shift in policy. I withdraw my amendment as I am going to oppose this no matter what is says. Rep. Liable Are we talking about the amendment or the bill? Noennig there is no amendment. Rep. Liable said if the county had the threat of going out to bid that would serve to deter any mischief. Just having this option should give the counties and cities more latitude to work with people and retain people they are pleased with and some room to negotiate. If you go for bids, the bid numbers are what you are stuck with and sometimes that is not good. Rep. Price this bill deals only in the area of contract services which is a pretty limited area and if it doesn't work we will be back to change it in two years.

Motion/Vote: REP. LEE moved that SB 407 BE CONCURRED IN. Motion carried 15-3 with Esp, Mangan and Lawson voting no. {Tape : 2; Side : A; Approx. Time Counter : 5 - 14.5}

EXECUTIVE ACTION ON SB 429

Motion: REP. MANGAN moved that SB 429 BE CONCURRED IN.

Motion/Vote: REP. MANGAN moved that SB 429 BE AMENDED. Motion passed unanimously. EXHIBIT (loh69a05) EXHIBIT (loh69a06)

Discussion: **Rep. Mangan:** This amendment strikes retroactive language on page 2. **Noennig** Did everybody the copy of the ordinance and did you get, I just want to explain the other sheet that was handed out was one that Sen. Sprague asked me to hand out that e-mail because he had given some incorrect numbers in his testimony.

EXHIBIT(loh69a08) **Rep. Mangan** obviously striking the retroactive date would not allow people to go back into previous areas, as I listened to the testimony, although I understand the concerns of the members of the community, I do not think it is the legislature's role to go back and try to fix something. It seems to me that to delete section 3, specific to a problem in Billings regarding this issue, the rest of the bill I do not have any problem with and I don't think that is the role of the legislature to go back and do that. That is the reason for the amendments.

Rep. Newman Mr. Chairman and members of the committee, the testimony was compelling in that there really is a need to amendment 7-5-132 and so I think that Rep. Mangan's amendment addresses that. I have real problem with the retroactivity clause as well, you saw the ending of that hearing. We did not talk about the statute and the legislature role in making the statute better, we started talking about tax policy in the city of Billings, that is none of our business. By getting rid of the retroactivity clause we can fix the statute without getting into someone else's business. This will be on the ballot in November and they also have some litigation between the warring parties to resolve it before November if they can. I would urge you to pass the amendment.

Rep. Peterson I say that you heard me get up on the floor yelling about special legislation and I cannot think of one bill that is more special and designed just for one thing than this one. I recognize that Sen. Sprague is representing his constituents and he is representing them well, but at the same time, when he got up the very first words he said was "this is a Billings problem". I support the amendment. Also, the mayor was reluctant to commit that the city would not do anything until after the election in November. I talked to him afterwards and this hesitance was because his legal counsel was concerned about that one provision in the law. **Rep. Liable:** my question is the legal minds on the committee. If we take out that retroactive clause, what prevents the city from authorizing this tax before November? I think that is the problem. **Liable** directed the question to Newman. Newman states that the mayor and the council is subject to the vote of the people. This is a local problem.

Rep. Noennig stated I think - It clearly is an unfair situation with regards to those people who tried to get the petition in on time, the short time they had, like 7 and 9 days, depending on whomever you believe. That is tough and it was a serious issue and they are in court, they are in court on a lot of things. I think what they are in court on is basically whether it was a tax or not, and therefore prohibited and whether or not they had enough time and if it was

fair. If we pass this bill it does exactly what they want to do in the courts', get a stay on the enforcement of it. The fairness argument is there but what we are trying to do in this bill, if we do not delete section 3, is not only fix what happened unfairly the first time, but to supersede what the courts role is in this.

Motion: REP. PETERSON moved that SB 429 BE CONCURRED IN AS AMENDED.

Discussion: Rep. Peterson, after hearing the testimony and rereading the bill, I was really concerned that wasn't enough time to present the petition. I think the 51 days was just adding the 21 days to the 30 days and if you read the following statute it talks about 60 days to process the material. So I thought 60 days was better, it gives more time and an ordinance that is passed on second reading is not effective for 30 days, so this gives them another 30 days. The city is going to know if there is something going on regarding the ordinance before it takes effect.

Motion/Vote: REP. PETERSON moved that SB 429 BE AMENDED. Motion carried unanimously.

Motion/Vote: REP. MANGAN moved that SB 429 BE CONCURRED IN AS AMENDED. Motion carried unanimously. {Tape : 2; Side : A; Approx. Time Counter : 14.5 - 22.8}

EXECUTIVE ACTION ON SB 138

Motion: REP. MANGAN moved that SB 138 BE CONCURRED IN.

Motion/Vote: REP. MANGAN moved that SB 138 BE AMENDED. Motion carried unanimously.

Discussion: Rep. Mangan: These amendments were submitted by the sponsor Sen. Nelson, they take into consideration the 1 and 3 amendment that Cascade County proposed, as well as assuring that special conservation districts be exempt from the bill. {Tape : 2; Side : A; Approx. Time Counter : 22.8 - 25}

Motion: REP. YOUNKIN moved that SB 138 BE CONCURRED IN AS AMENDED.

Motion/Vote: REP. MANGAN moved that SB 138 BE AMENDED. Motion carried unanimously.

(Conceptual) Cascade County had amendment to section 22, sub 1, page 10 wasn't in Sen. Nelson's amendment and it is my understanding that she does approve of the amendment. This

amendment says that the District Court would pass the entire county budget. This section needed clarification.

Motion/Vote: REP. MANGAN moved that SB 138 BE CONCURRED IN AS AMENDED. Motion carried 17-1 with Lawson voting no. {Tape : 2; Side : A; Approx. Time Counter : 25 - 30}

EXECUTIVE ACTION ON SB 241

Motion: REP. JACOBSON moved that SB 241 BE CONCURRED IN.

Motion/Vote: REP. LAWSON moved that SB 241 BE AMENDED. Motion carried unanimously. EXHIBIT(loh69a07)

Motion/Vote: REP. YOUNKIN moved that SB 241 BE CONCURRED IN AS AMENDED. Motion carried unanimously. {Tape : 2; Side : B; Approx. Time Counter : 0 - 3.5}

ADJOURNMENT

Adjournment: 5:45 P.M.

REP. MARK NOENNIG, Chairman

PATI O'REILLY, Secretary

MN/PO

EXHIBIT (loh69aad)